

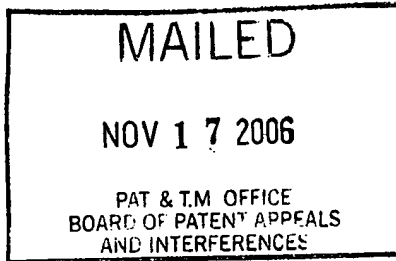


PAPER NO.

UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Richard Torczon
Telephone: 571-272-4683
Facsimile: 571-273-0042



Patentees: McINTOSH
Application No.: 09/580,201, now Patent No.
6,767,896, granted 07/27/04
Filed: 05/26/00
For: Conotoxin peptides

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,492.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/Richard Torczon/
RICHARD TORCZON
Administrative Patent Judge

BoxInterferences@uspto.gov
Telephone: 571-272-4683

Paper 1
DECLARED 17 November 2006

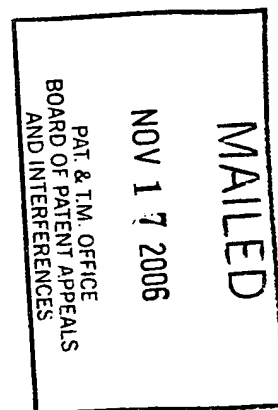
UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,492 (RT)
(From Technology Center 1600)

COGNETIX, INC.
and the University of Utah Research Foundation
(6,767,896),¹
Junior Party,

v.

XENOME LTD.
(10/918,096)²
Senior Party.



DECLARATION - Bd.R. 203(b)³

By TORCZON, Administrative Patent Judge.

1 A. Declaration of interference

2 An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application,
3 patent, count, and claims designated as corresponding to the count appear under headings E
4 and F of this DECLARATION.

5 B. Designation to manage

6 Administrative Patent Judge Richard Torczon has been designated to manage the
7 interference. Bd. R. 104(a).

¹ Docket # 2314-187.

² Docket # 026076-000210US.

³ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 C. Standing order

2 A copy of the Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
3 DECLARATION. The STANDING ORDER applies to this contested case.

4 D. Conference call to set dates

5 A telephone conference call to set dates for action in this contested case is scheduled for
6 2 p.m. (Eastern) on 17 January 2007. (The Board will initiate the call.)

7 No later than 15 January 2007, each party shall file and serve (SO ¶¶ 10.1 & 105) a list
8 of the motions (Bd. R. 120; Bd. R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

9 A sample schedule for taking action during the motion phase appears as Form 2 in the
10 STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference
11 call and to agree on dates for taking action. A typical motion period lasts approximately eight (8)
12 months. Counsel should be prepared to justify any request for a shorter or longer period.

13 E. The parties to this interference14 Junior Party

15 Patent: 6,767,896, issued from 09/580,201

16 Title: Conotoxin peptides

17 Inventors: J. Michael McIntosh and Baldomero M. Olivera of Salt Lake City, Utah;
18 Lourdes J. Cruz of Manila, Philippines; Gloria P. Corpuz of Miliani, Hawaii;
19 and Robert M. Jones and James E. Garrett of Salt Lake City, Utah

Senior Party

Application: 10/918,096

Title: Novel⁴ peptides

Inventors: Richard Lewis of Woolloongabba, Paul Alewood of Moggill, and Iain Sharpe of Taringa, all of Australia

F. Count and claims of the parties

Count 1

A conotoxin peptide of 6,767,896 claim 1 or of 10/918,096 claim 47.

The claims of the parties are:

Cognetix: 1-24

Xenome: 35-39, 41-44, 47-49, and 51-67

The claims corresponding to Count 1:

Cognetix: 1-6, 11, 13-20, and 22

Xenome: 35-39, 41-44, 47-49, and 51-67

⁴ This title falls abysmally short of the specificity required under 37 C.F.R. § 1.72(a).

- 1 The claims not corresponding to Count 1:
- 2 Cognetix: 7-10, 12, 21, 23, and 24
- 3 Xenome: None

1 The benefit accorded for Count 1:

2 Cognetix: 09/580,201, filed 26 May 2000 (6,767,896);

3 09/493,143, filed 28 January 2000; and

4 60/173,298, filed 28 January 1999.

5 Xenome: 10/918,096, filed 13 August 2004;

6 09/787,986, filed 27 June 2001 (6,794,361);

7 PCT/AU99/00844, filed 1 October 1999; and

8 AU PP 6274, 2 October 1998.

9
10 G. Heading to be used on papers; exhibit numbers

11 Addendum 1 provides the heading that shall be used on all papers filed in the contested
12 case. See SO ¶ 106.1.1.

13 The range of exhibit numbers is assigned as follows (Bd.R. 154(c)(1); SO ¶ 154.2.1):

14 Xenome: 1001-1999.

15 Cognetix: 2001-2999.

16 H. Order form for requesting file copies

17 When requesting copies of files, use of Addendum 2 (SO Form 4) will greatly expedite
18 processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a
19 hand-drawn circle around the patents and applications for which a copy of a file wrapper is
20 requested.

Attachment: Copy of the application⁵ claims for 10/918,096.

Enclosure: Copy of STANDING ORDER (Paper 2)

cc:

Jeffrey L. Ihnen and Patrick T. Skacel, ROTHWELL FIGG ERNST & MANBECK, of Washington, D.C., for Cognetix, Inc. and the University of Utah Research Foundation.

Karen B. Dow and Kawai Lau, TOWNSEND AND TOWNSEND AND CREW LLP, of San Diego, California, for Xenome Ltd.

⁵ Any United States patent listed in this paper is available at <http://patft.uspto.gov/>.

ADDENDUM 1

Filed on behalf of: [Name of Party]
By: [Name of lead counsel
Name of backup counsel
Street address
City, State, and ZIP Code
Tel:
Fax:]

Paper No. [Leave blank]

**UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Patent Interference No. 105,492 (RT)

COGNETIX, INC.
and the University of Utah Research Foundation
(6,767,896),
Junior Party,

v.

XENOME LTD.
(10/918,096)
Senior Party.

TITLE OF PAPER

ADDENDUM 2**FILE COPY REQUEST**
Patent Interference No. 105,492

Attach a copy of sections E and F of this DECLARATION to this REQUEST. On the copy, circle each patent and application that you are requesting. Include the following information to facilitate processing of this REQUEST:

1. Charge fees to USPTO Deposit Account No. _____
2. Complete address,⁶ including street, city, state, ZIP code, and telephone number:

3. Telephone, including area code: _____

⁶ Provide a street address, NOT a Post Office Box. The Office of Public Records uses a commercial overnight delivery service rather than the United States Postal Service to deliver file copies.

INTERFERENCE DIGEST

Interference No. 105,492

Paper No.

Name: J. Michael McIntosh et al.

Serial No.: 09/580,201

Patent No. 6,767,896, granted 07/27/04

Title: Conotoxin peptides

Filed: 05/26/00

Interference with Lewis et al.

DECISION ON MOTIONS

Administrative Patent Judge, _____ Dated, _____

FINAL DECISION

Board of Patent Appeals and Interferences, _____ Dated, _____

Court, _____ Dated, _____

REMARKS

This should be placed in each application or patent involved in interference in addition to the interference letters.